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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/818,134
Filing Date: March 27, 2001
Appellant(s): BELU, SABIN

Christopher A. Wiklof
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/12/2010 appealing from the Office action mailed 7/6/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Upon further review of specification, the claim 25 rejection under 35 USC 101 as set forth in the previous office action is hereby withdrawn.

a) ***Claims 1-10, 20, 24, 26, 27, 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Halpern et al. [hereafter Halpen], US Patent No. 6282711 filed on Aug 10, 1999***

b) ***Claims 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Wygodny et al. [hereafter Wygodny], US Patent No. 6202199 based on provisional application No. 60/055,165 filed on July 31,1997***

c) ***Claims 11-19,25,28-29, 30, 34, are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. [hereafter Halpen], US Patent No. 6282711 filed on Aug 10,1999 as applied to claim 10, 32, above, and further in view of Gage et al. [hereafter Gage], US Patent No. 5923846 published on July 13, 1999***

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,282,711	Halpern et al.	8 2001
6,202,199	Wygodny et al.	3-2001
5,923,846	Gage et al.	7-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Upon further review of specification, the claim 25 rejection under 35 USC 101 as set forth in the previous office action is hereby withdrawn

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. ***Claims 1-10, 20, 24, 26, 27, 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Halpern et al. [hereafter Halpen], US Patent No. 6282711 filed on Aug 10, 1999***.

3. As to Claim 1, Halpern teaches a system which including ' a method for creating, in response to only a single action by a user enabled electronic device a self-extracting file [col 1, line 36-37, col 4, line 57-61, line 66-67, col 5, line 6-7, col 6, line 19-22, line 47-52, fig 1], Halpen teaches user interface allows users to select required program in a "single action" for example "double click [col 1, line 36-37] is common knowledge in the art, further Halpen also specifically teaches "self-extracting" executable programs and data files as detailed in col 6, line 47-52;

receiving from the user enabled electronic device,[col 5, line 41-44, fig 1] an input file to be used in creating a self-extracting file [col 6, line 47-52], self-extracting file corresponds to Halpen's self-extracting executable programs and data files as detailed in col 6, line 47-52;

without further action by the user enabled electronic device, [col 3, line 42-49], Halpen specifically teaches dynamically producing required software installation files particularly via user interface template as detailed in fig 1, col 3, line 42-49]; ' creating a self-extracting file using the input file, wherein the input file is configured to be automatically launched upon execution of the self-extracting file' [Abstract, line 23-25, col 3, line 62-67, col 4, line 1-5, col 6, line 47-52], Halpen specifically teaches "auto-launch" or "auto-start" feature for installation the selected program applications and files.

4. As to Claim 2, Halpern disclosed wherein the received input file has an associated filename and wherein a filename for the self-extracting file is configured to be automatically generated based in part on the associated filename of the received input file [Abstract, line 21-25, col 1, line 41-44,col 3, line 62-67, col 12, line 46-50, col 6, line 47-50].

5. The limitations of claims 10, 20, 26 and 32 are rejected in the analysis of Claim 1 above, and these claims are rejected on that basis.

6. As to Claim 3, Halpern teaches a system which including 'a method for creating, in response to a single action [col 3, line 1-4], single action corresponds to in response to the user's input; ' a self-extracting file from an associated input file, wherein the associated input file is automatically launched upon execution of the self-extracting file [Abstract, line 23-25, col 3, line 62-67, col 4, line 1-5, col 6, line 47-52], Halpen specifically teaches "auto-launch" or "auto-start" feature for installation the selected program applications and files, self-extracting file corresponds to Halpen's self-extracting executable programs and data files as detailed in col 6, line 47-52;

' and wherein a user is not required to separately choose a data compression method [col 7, line 39-45], Halpern specifically teaches "compression process" of files to create a compressed installation as detailed in col 7, line 39-45]; ' create a compressed archive using the chosen compression method' [col 1, line 33-39], Halpern specifically teaches both compression and decompression of files particularly with respect to self-extracting of files using PKUNZIP process, further as best understood by the examiner, "PKUNZIP" corresponds to compression/archive program and therefore "compressed archive using the compression method" is integral part of Halpern's teaching, also it is noted that PKUNZIPis a "software" tool for compression/archiving files; 'select an input file to be launched upon decompression of the compressed archive, and create a self-extracting file from the compressed archive, the method comprising [col 1, line 33-39, col 4, line 9-12, col 7, line 39-41]

receiving an input file to be used in creating a self-extracting file [col 3, line 1-4, line 62-67], Halpern specifically teaches user interface, where user selecting or inputting

required installation of package containing files and/programs, particularly self-extracting files, 'wherein the file is one of a plurality of file types' [col 1, line 41-44, col 2, line 28-30], plurality of files corresponds to setup.exe or install.exe files are part of Windows NT or Unix file system

in response to only a single action[col 1, line 36-37] "single action" for example "double click is common knowledge in the art, creating a self-extracting file from the input file, wherein the input file is configured to be automatically launched upon execution of the self-extracting file [Abstract, line 23-25, col 3, line 62-67, col 4, line 1-5, col 6, line 47-52], Halpen specifically teaches "auto-launch" or "auto-start" feature for installation the selected program applications and files; self-extracting file corresponds to Halpen's self-extracting executable programs and data files as detailed in col 6, line 47-52.

7. As to Claim 4, Halpern disclosed ' wherein the single action is a single click with a computer pointing device' [col 1, line 33-37, col 4, line 66-67, col 5, line 1-7], Halpern specifically teaches user interface that allows users to select required options

8. As to Claim 5, Halpern disclosed 'wherein the single action is a double click with a computer pointing device' [col 1, line 33-37]

9. As to Claims 6-7, Halpern disclosed single action is speaking a sound, pressing a key '[col 3, line 1-7, col 4, line 66-67, fig 1].

10. As to Claim 8, Halpern disclosed 'wherein the single action is a call from a software routine' [col 3, line 37-38].

11. As to Claim 9, Halpern disclosed 'further comprising generating a filename for the self-extracting file , wherein the generated filename is based on a filename associated with the input file [col 1, line 25-44, col 2, line 28-29, col 6, line 47-50, fig 1].

12. The limitations of claim 24 are rejected in the analysis of claim 3 above, and the claim 24 is rejected on that basis.

13. As the Claim 27, the limitations of claim 27 are similar to the limitations of claim 1 above. Halpern further teaches the executable file includes a compressed copy of the input file, and wherein the compressed copy of the input file is automatically decompressed [col 1, line 33-44, col 3, line 62-67, col 4, line 1-2, line 9-12]. Therefore, the limitations of claim 27 are rejected in the analysis of Claim 1 above, and the claim is rejected on that basis.

14. The limitations of claim 31 are rejected in the analysis of claim 27above, and the claim 31 is rejected on that basis.

15. As to Claim 33, Halpen disclosed 'wherein the input file is an executable routine and wherein a function of the executable routine is called upon loading of the executable routine [col 1, line 41-44]

16. ***Claims 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Wygodny et al. [hereafter Wygodny], US Patent No. 6202199 based on provisional application No. 60/055,165 filed on July 31,1997.***

17. As to Claim 21, Wygodny teaches a system which including ' a method of creating a self-extracting file' [col 16, line 41-44], self-extracting file corresponds to Wygodny's self-extracting file;

displaying a first frame used to allow a user to specify an input file to be converted to a self-extracting file [col 8, line 51-55, col 17, line 1-7, fig 3A, fig 9-10], displaying a first frame corresponds to Wygodny's fig 3A, frame window 300 split frame having four panes is part of the user interface, further Wygodny also teaches user selecting specific file from the file menu or dialog box as detailed in col 17, line 1-7;

receiving the input file specified by the user, wherein the received input file is automatically configured as a self-extracting file, and wherein the input file is automatically launched upon execution of the self-extracting file [col 17, line 1-12, line 21-23, line 33-41, line 43-47, fig 10-11]; Wygodny specifically teaches user interface allows to select required file from the file list as detailed in fig 10-11

displaying a second frame, [fig 3A-3B, fig 5] wherein the second frame includes a link related to the self-extracting file created from the user specified input file [col 17, line 1-7, line 49-56], displaying a second frame corresponds to Wygodny's fig 3A

18. As to Claim 22, Wygodny teaches a system which including 'system for creating a self-extracting file [col 16, line 41-44], self-extracting file corresponds to Wygodny's self-extracting file;

a receiving module configured to receive an input file, wherein the input file received is one of a plurality of file types and wherein the input file includes an associated filename [col 9, line 9-13, line 57-62, col 12, line 24-35], input files and file names corresponds to executable files shown in the display window as detailed in fig 3A, element 314;

a naming module configured to create and name an output file, wherein the output filename is generated from the associated filename of the input file [col 7, line 12-15], Wygodny specifically teaches file input/output operations; 'and wherein the naming module receives the input file from the receiving module' [col 10, line 63-67]

a self-extracting module configured to transform the output file into a executable file, wherein the self-extracting module receives the input file and the output file from the naming module [col 16, line 39-44];

a loader module configured to setup the executable file to launch the input file upon execution of the executable file, wherein the loader module receives the executable file and the input file from the self-extracting module [col 9, line 9-13, line 57-62, col 12, line 24-35, line 44-46, col 17, line 43-53, fig 10];

a compressing module configured to compress the input file and attach the compressed input file to the executable file, wherein the compressing module receives the input file and the executable file from the loader module [col 16, line 39-44, col 17, line 43-53, fig 10]; wherein each module is embodied in hardware, in firmware, or in a collection of software instructions stored in a tangible computer-readable medium" [col 5, line 6-17, col 6, line 56-67].

19. As to Claim 23, Wygodny specifically teaches 'wherein the loader module is further configured to setup the executable file to perform unload processes' [col 5, line 65-67, col 6, line 1-10].

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

21. ***Claims 11-19,25,28-29, 30, 34, are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. [hereafter Halpen], US Patent No. 6282711 filed on Aug 10,1999 as applied to claim 10, 32, above, and further in view of Gage et al. [hereafter Gage], US Patent No. 5923846 published on July 13, 1999***.

22. As to Claim 11, Halpern disclosed wherein the creation of the self-extracting file opening an output file [col 6, line 47-52], self-extracting file corresponds to Halpen's self-extracting executable programs and data files as detailed in col 6, line 47-52;

attaching a decompression engine to the output file, wherein the decompression engine is capable of decompressing compressed data' [col 4, line 9-12]

attaching a loader to the output file, wherein the loader configures the output file so as to automatically launch, after execution of the self-extracting file [Abstract, line 23-25, col 3, line 62-67, col 4, line 1-5, col 6, line 47-52], Halpen specifically teaches "auto-launch" or "auto-start" feature for installation the selected program applications and files, self-extracting file corresponds to Halpen's self-extracting executable programs and data files as detailed in col 6, line 47-52;

'compressing the received input file according to a data compression method; attaching an archive including information about the compressed input file [col 1, line 33-39], Halpern specifically teaches both compression and decompression of files particularly with respect to self-extracting of files using PKUNZIP process, further as best understood by the examiner, "PKUNZIP" corresponds to compression/archive program and therefore "compressed archive using the compression method" is integral part of Halpern's teaching, also it is noted that PKUNZIPis a "software" tool for compression/archiving files

closing the output file, wherein the closed output file is the self- extracting file [col 6, line 19-22, line 54-60].

It is however, noted that Halpern does not specifically teach “temporary files”, “archive header” On the other hand, Gage disclosed ‘temporary files” [col 11, line 61-67, col 12, line 1-4, fig 3-4], Gage specifically teaches source files are copied , and compressed into the temporary files as detailed in col 11, line 62-64; “archive header [fig 5, col 14, line 21-25, line 34-41], Gage specifically teaches header data structure information including compressed file format as detailed in col 14, line 34-41.

It would have been obvious to one of the ordinary skill in the art at the time of applicant’s invention to incorporate the teachings of uploading/downloading files on a computer network of Gage et al. into user initiating the installation of software via distributed processing network of Halpern et al because both Halpern, Gage specifically teaches compression and decompression process particularly, using PKZ*IP* [Halpern: col 1, line 33-39; Gage: col 10, line 45-50, col 12, line 1-4], both Halpern, Gage specifically directed to “distributed processing network ‘ [Halpern: fig 1; Gage: fig 1]. Therefore, based on Halpern, in view of Gage, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Gage to the system of Halpern in order to provide temporary files during automatic file compression thereby increase the speed of uploading files in the distributed processing network, thus improving the quality and reliability of the system.

23. As to Claim 12, Halpern disclosed ‘wherein the input file is received from a user enabled electronic device [fig 1].

24. As to Claim 13, Halpern disclosed 'wherein the input file is received from a software routine [col 2, line 66-67, col 3, line 1].

25. As to Claim 14-15, Halpern disclosed 'wherein the data compression method is the same method for all received input files [col 6, line 11-14].

26. As to Claim 16, Halpern disclosed 'wherein the loader attached to the output file depends on the file type of the input file [col 1, line 41-44, line 61-65].

27. As to Claim 17, Gage disclosed 'wherein the loader automatically unloads the temporary file' col 12, line 16-18].

28. As to Claim 18, Gage disclosed 'comprising attaching an unloader to the output file to automatically unload the temporary file' [col 9, line 61-65].

29. As to Claim 19, Gage disclosed 'wherein the unloader performs cleanup processes on the temporary file [col 14, line 57-60, col 15, line 5-8].

30. The limitations of claims 25 and 30 are rejected in the analysis of claims 10-11 above, and these claims are rejected on that basis, further Halpern specifically teaches "PKUNZIP" compression/decompression related to files [col 1, line 33-41], and a loader operable to launch the decompressed input data portion with appropriate

application software for handling the input data file [col 1, line 39-44]. Therefore, based on Halpern in view of Gage, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Gage to the system for archive header to include compressed file information in order to provide or display respective message to the user.

31. As to Claim 28, Halpern disclosed the packing and unpacking processes are done without any user intervention [see Abstract, col 6, line 1-10, line 17-22]. This teaches the packing and unpackaging processes being done. Therefore, the limitations of claim 28 are rejected in the analysis of claims 10-11 above, and the claim is rejected on that basis. Therefore, based on Halpern in view of Gage, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Gage to the system for archive header to include compressed file information in order to provide or display respective message to the user.

32. The limitations of claim 29 are rejected in the analysis of claim 28 above, and the claim is rejected on that basis.

33. As to Claim 34, Gage disclosed ' wherein the input file is a dynamic link library file' [col 8, line 25-27]. Therefore, based on Halpern, in view of Gage, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Gage to the system of Halpern in order to provide temporary

files during automatic file compression thereby increase the speed of uploading files in the distributed processing network, thus improving the quality and reliability of the system

(10) Response to Argument

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." Perricone v. Medicis Pharmaceutical Corp., 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citing Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., 976 F.2d 1559, 1565 (Fed. Cir. 1992)).

Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. Examiner determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Am. Acad. ofSci. Tech Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

If the Examiner's burden is met, the burden then shifts to the Appellants to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See In re Oetiker, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

a) At page 38, Claim 1, at page 43, claim 26, applicant argues "Halpern does not disclose receiving an input file to be used in creating a self-extracting file from a user-enabled electronic device".

b) At page 38, Claim 1, applicant argues "Halpern does not disclose creating a self-extracting file using the input file without further action by the user enabled electronic device"

As to the argument [a-b], examiner disagree with the applicant because firstly, Halpern is directed to installing software components from a remote server source, particularly, instillation of the selected application and options [see Abstract], secondly, Halpen specifically teaches user interface particularly installing various software packages or downloading required software packages [see col 5, line 41-44], further Halpern specifically teaches "self-extracting" executable programs and data files for example as detailed in col 6, line 47-52 . Thirdly, Halpern specifically teaches "auto-start" feature for installing selected software programs, i.e. installing files via user interface template as detailed in col 3, line 42-49, fig 1. It is noted that Halpern specifically teaches "multiple user interfaces" particularly user initiates installation process from user connected devices for example as detailed in fig 1, col 4, line 61-67, col 5, line 41-44, corresponds to "user-enable device[s] supporting user interface[s].

It is further noted that Halpen specifically defines "self-extracting" is a "executable file" for example "setup.exe or install.exe implemented , and configured to automatically launched without further user interference" as detailed in Halpen: col 4,

line 9-18, col 6, line 47-52 is exactly reads on applicant's definition of "self-extracting" is a "executable file"[see specification page 2, line 15-16, page 3, line 25-29], further it is common knowledge in the art that file extension represents the file type for example ".exe" file is a "executable file

Therefore, Halpern specifically teaches user interface allows receiving an input file from a user-enabled electronic device to be used in crating a self-extracting file.

As discussed above, with respect to claim 1, examiner applies above argument to claim 26.

c) At page 38, claim 1, applicant argues Halpern does not disclose the input file is configured to be automatically launched upon execution of the self-extracting file"

d) At page 39, claim 1, applicant argues "Halpern apparently only includes this "auto-start utility" in a list of possible program components and does not describe what it is. It is suggested that perhaps this relates to a program component that can automatically launch an application responsive to clicking on a linked data file type. But this does not mean that the compressed file is automatically launched upon extraction. Nowhere does Halpern disclose an input file that is "configured automatically launched upon execution of the self-extracting file".

As to the above argument [c-d], examiner disagree with the applicant because Halpern specifically teaches not only user interface that allows "auto launch" or auto-start" feature, but also teaches self-extractor process as clearly detailed in col 3, line 23-25, col 3, line 62-67, col 4, line 1-5, col 6, line 47-52, further self-extracting executable

containing compression and /or decompression and auto-start utilities enables "auto-start" or auto-launching" application[s] of file[s] including "self-extracting file[s]" as detailed in col 4, line 9-18. Therefore, "auto-launch" or "auto-start" utility is integral part of Halpern's teaching.

e) At page 40, Claim 2, Applicant argues Halpern does not disclose naming a self-extracting file based in part on the filename of a received input file. Halpern is apparently silent on the names of input files, and does not disclose naming a self-extracting file based in part on the name of an input file.

As to the above argument [e], examiner disagree with the applicant because Halpern not only strongly teaches "self-extracting files" is part of the program and data files col 6, line 47-48, but also "file types" associated with the self-extracting files for example "setup.exe", "install.exe", therefore, name of the file corresponds to "setup.exe", "install.exe".

f) At page 40-41, claim 3, applicant argues "Halpern does not disclose the input file is configured to be automatically launched upon execution of the self-extracting file"

As to the above argument [f], examiner disagree with the applicant because as explained in the above arguments of claim 1, Halpern specifically teaches not only multiple user interface templates allows installing files via user interface template as

detailed in col 3, line 42-49, fig 1 particularly "auto-launch" function to perform self-extracting files [col 6, line 47-52, but also teaches "compression process" of files to create a compressed installation for example as detailed in col 7, line 39-45, as noted from Halpern, PKUNZIP is a software tool for compression/archiving files is part of Halpern's teaching [col 1, line 33-39, col 4, line 9-12, col 7, line 39-41].

Examiner applies above arguments to claim 8 dependent from claim 3.

g) At page 41, claim 3, applicant argues "Halpern does not mention anything that could remotely be interpreted as "auto-start" at the cited location"

As to the argument [g], examiner disagree with the applicant because Halpern specifically teaches not only user interface that allows "auto launch" or auto-start" feature, but also teaches self-extractor process as clearly detailed in col 3, line 23-25, col 3, line 62-67, col 4, line 1-5, col 6, line 47-52, further self-extracting executable containing compression and /or decompression and auto-start utilities enables "auto-start" or auto-launching" application[s] of file[s] including "self-extracting file[s]" as detailed in col 4, line 9-18. Therefore, "auto-launch" or "auto-start" utility is integral part of Halpern's teaching.

h) At page 41, claims 4-7, applicant argues "since Halpern does not disclose creating a self-extracting file from only a single action, it also does not disclose the types of single actions by a user recited by claims 4-7,..."

As to the above argument [h], Examiner applies above discussed arguments, further, Halpern specifically teaches "single action" using computer pointing device is

part of input for example as detailed in col 1, line 33-37, col 4, line 66-67, and col 5, line 1-7].

i) At page 42, claim 9, applicant argues "generating a filename for the self-extracting file, wherein the generated file name is based on a filename associated with the input file

As to the above argument [i], Halpern specifically teaches generating "self-extracting file" and identified by specific extension of files for example as detailed col 1, line 25-44, col 2, line 28-29, col 6, line 47-60

j) At page 42, claim 10, examiner applies argument of claim 1 as discussed above.

k) At page 42-43, claim 20, applicant argues "As discussed above with respect to claim 1, Halpern does not disclose an input file being automatically launched upon execution of a self-extracting file

"Claim 20 is additionally allowable for reasons similar to those given for claim 1 with respect to "wherein the input file will be automatically launched upon execution of the self-extracting file"

As to the above arguments [k], examiner applies argument of claim 1 as discussed above

l) At page 43, claim 24, applicant argues "for reasons similar to those given for claim 1, Halpern does not disclose a "module for creating, in response to only a single

action by a user, an executable file from the compressed input file, wherein the input file will be automatically launched upon execution of the executable file"

As to the above argument [l], examiner applies argument of claim 1 as discussed above

m) At page 43, claim 26, applicant argues "as discussed above with respect to claim 1, Halpern does not disclose receiving from a user an input file to be used in creating a self-extracting file ……..

As to the above argument [m], examiner applies argument of claim 1 as discussed above

n) At page 44, claim 27, applicant argues, as discussed above with respect claim 1, Halpern does not disclose "wherein the compressed copy of the input file being automatically decompressed and launched upon execution of an executable file".

Moreover, for reasons similar to those given for claim 1, Halpern also does not disclose receiving an input file in response to a single action. Accordingly, Halpern does not disclose all the limitations of claim 27.....

As to the above argument [h], examiner applies arguments of claim 1,and claim 3, further, it is noted that Halpern specifically teaches compression and decompression of files for example using commands for PKUNZIP or a similar decompression utility as detailed in col 1, line 33-44, col 3, line 62-67, col 4, line 1-2, line 9-12]. It is also noted that compression and decompression commands typically part of operating system particularly Halpern suggests multiple operating systems such

as Windows NT, Unix file system for pack and unpack installation package programs [col 1, line 35-44, col 2, line 28-32].

o) At page 44-45, claim 31, applicant argues "as discussed above with respect to claim 1, Halpern does not disclose "creating an executable file from an input file, wherein the executable file includes a compressed copy of the input file, and wherein the executable file includes code to decompress and to load the compressed input file. The specific disclosure is nowhere to be found in Halpern. Moreover, for reasons given for claim 1, Halpern does not generally disclose an input file is configured to be automatically launched upon executor of the self-extracting file, and therefore also does not disclose the executable file includes" code to decompress and to load the compressed input file.

As to the above argument [o], examiner applies arguments of claim 1,claim 3, and claim 27, further, it is noted that Halpern specifically teaches compression and decompression of files for example using commands for PKUNZIP or a similar decompression utility as detailed in col 1, line 33-44, col 3, line 62-67, col 4, line 1-2, line 9-12]. It is also noted that compression and decompression commands typically part of operating system particularly Halpern suggests multiple operating systems such as Windows NT, Unix file system for pack and unpack installation package programs [col 1, line 35-44, col 2, line 28-32]. As noted, Halpern specifically teaches executable files typically identified with file extension for example "setup.exe", "install.exe" [see col 1, line 43-44, col 6, line 47-52]

p) At page 45, claim 32, applicant argues "for reasons described above with respect to claim 1, Halpern does not disclose "receiving, in response to a single action, an input file to be used in creating a self-extracting file, without further instruction, creating a self-extracting file using the input file". Halpern is silent with respect to whether further instruction is required to create a self-extracting file.

Moreover, Halpern does not disclose, "automatically launching the input file upon execution of the self-extracting file". Halpern only discloses self-extraction.

As to the above argument [p], examiner applies arguments of claim 1,claim 3, and claim 27

q) At page 45, claim 33, examiner applies above argument of claim 32

r) At page 46-47,claim 21, applicant argues "Wygodny does not disclose "the input file is automatically launched upon execution of the self extracting file"

s) Moreover, Wygodny does not disclose "displaying a first frame used to allow a user to specify an input file to be converted to a self-extracting file.

t) Wygodny does not disclose "displaying a second frame wherein the second frame includes a link related to the self-extracting file created from the user specified input file

As to the above argument [r-t], examiner disagree with the applicant because, Wygodny teaches user interface particularly displaying windows frame with different panes that allows user to view, edit or use commands to do required functions for example analyzing or execution of file and like as detailed in col 8, line 51-55, col 17, line 1-7, fig 3A, fig 9-10, further Wygondny also teaches self-extracting files, more specifically, self extracting zip files automatically configured and executed or launched as detailed in col 17, line 1-12, line 21-23, line 33-41, line 43-47, fig 10-11. It is noted that , Wygodny teaches displaying window divided into multiple frames [fig 3A], and frame element 314 specifically containing self-extracting file for example frame 314 containing link related multiple self-extracting files [fig 3A-3B,fig 5, col 17, line 1-7, line 49-56 , it reads on the limitation displaying a second frame wherein the second frame ……user specified input file. It is further noted that Wygodny specifically teaches not only user interface listing “executable files” o displaying executable files, but also interactively generates file information including source structures such as modules, directories, source files and like [col 9, line 9-13, line 57-65, col 10, line 63-67], also supported by user interface "buttons", menu options, and commands such as detailed in col 10, table 1.

u) At page 48, claim 22, applicant argues Wygodny does not disclose receiving an input file, wherein the input file received is one of a plurality of file types".

v) At page 48, claim 22, applicant argues Wygodny does not disclose " a naming module configured to create and name an output file, wherein the output filename is generated from the associated filename of the input file".

w) At page 48-49, claim 22, applicant argues "Wygodny does not disclose " a self-extracting module configured to transform the output file into a executable file"

As to the above arguments [u-w], firstly Wygodny is directed to tracing the execution path for computer programs, more specifically user interface allows generate a trace file representing execution of the program file[s] see Abstract, col 4, line 52-57. Secondly, Wygodny teaches user interface allows to create and execute files particularly input files and file names corresponds to executable files as detailed in fig 3A, col 9, line 9-13, line 57-62 and naming module is integral part of input files, further it is noted that during the interactively generated process, the analyzer displays various data structure items such as modules, directories, source files and like as detailed in col 10, line 63-67 corresponds to input file from the receiving modules are displayed. Thirdly, Wygodny also specifically teaches self-extracting executable files received from the file selection window [col 16, line 39-44] corresponds to self-extracting module receives the input file and the out file from the naming module

Examiner applies above argument to claim 23.

x) At page 50, claim 25, applicant argues “In contrast, , for reasons given with respect to claim 1, Halpern neither discloses nor renders obvious “a loader operable to launch a decompressed input data portion with appropriate application software for handing the input data file.

Since Gage does not disclose a self-extracting file, Gage also does not disclose a self-extracting file that also includes a loader operable to launch the decompressed input data portion with appropriate application software”

Accordingly, Halpern and Gage, alone and in combination, fail to disclose or reasonably suggest all the limitations of claim 25.

In response to applicant's arguments [x] against the reference individually, one cannot show nonobviousness by attacking reference individually where the rejections are based on combination of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Under 35 USC § 103, by showing insufficient evidence of prima facie obviousness or by rebutting the primafacie case with evidence of secondary indicia of nonobviousness.") (quoting In re Rouffet, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

> "Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1734 (2007).

The question of obviousness is resolved on the basis of underlying factual

determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. Graham v. John Deere Co., 383 U.S. 1, 17-18 (1966). See also KSR, 127 S. Ct. 1727, 1734 ("While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.")

"The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."). Leapfrog Enter., Inc. v. Fisher-Price, Inc., 485 F.3d 1157, 1161 (Fed. Cir. 2007) (quoting KSR Int'l v. Teleflex, Inc., 127 S. Ct. 1727, 1739(2007)). "One of the ways in which a patent's subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent's claims." KSR, 127 S. Ct. at 1742.

Discussing the obviousness of claimed combinations of elements of prior art, KSR explains:

> When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. Sakraida [v. AG Pro, Inc., 425 U.S. 273 (1976)] and Anderson's-Black Rock[, Inc. v. Pavement Salvage Co., 396 U.S. 57 (1969)] are illustrative--a court must ask

> whether the improvement is more than the predictable use of prior art elements according to their established functions.

KSR, 127 S. Ct. at 1740. Where the claimed subject matter cannot be fairly characterized as involving the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement, a holding of obviousness can be based on a showing that there was "an apparent reason to combine the known elements in the fashion claimed." KSR, 127 S. Ct. at 1741. Such a showing requires "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id., 127 S. Ct. at 1741 (quoting In re Kahn, 441 F.3d 977, 987(Fed. Cir. 2006)).

The reasoning given as support for the conclusion of obviousness can be based on interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a person having ordinary skill in the art. KSR, 127 S. Ct. at 1740-41. See also Dystar Textilfarben GmbHv. C.H. Patrick Co., 464 F.3d 1356, 1368 (Fed. Cir. 2007).

Examiner noted that court has recently reaffirmed that:

> [A]n implicit motivation to combine exists not only when a suggestion may be gleaned from the prior art as a whole, but when the 'improvement' is technology-independent and the combination of references results in a product or process that is more desirable, for example because it is stronger, cheaper, cleaner, faster, lighter, smaller, more durable, or more efficient. Because the

> desire to enhance commercial opportunities by improving a product or process is universal-and even common-sensical-we have held that there exists in these situations a motivation to combine prior art references even absent any hint of suggestion in the references themselves. In such situations, the proper question is whether the ordinary artisan possesses knowledge and skills rendering him capable of combining the prior art references.

Leapfrog, 485 F.3d at 1162 (holding it "obvious to combine the Bevan device with the SSR to update it using modem electronic components in order to gain the commonly understood benefits of such adaptation, such as decreased size, increased reliability, simplified operation, and reduced cost").

Also, a reference may suggest a solution to a problem it was not designed to solve and thus does not discuss. KSR, 127 S. Ct. at 1742 ("Common sense teaches.., that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle .....A person of ordinary skill is also a person of ordinary creativity, not an automaton.").

The prior art relied on to prove obviousness must be analogous art. As explained in Kahn,

> the 'analogous-art' test-has long been part of the primary Graham analysis articulated by the Supreme Court. See Dann [v. Johnston,] 425 U.S. [219,] 227-29 (1976), Graham, 383 U.S. at 35. The analogous-art test requires that the Board show that a reference is either in the field of the applicant's endeavor or is reasonably pertinent to the problem with which the inventor was concerned in order to rely on that reference as a basis for rejection. In re Oetiker, 977 F.2d 1443, 1447 (Fed. Cir. 1992). References are selected as being reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art. Id. ("[I]t is necessary to consider 'the reality of the circumstances,'-in

> other words, common sense-in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor." (quoting In re Wood, 599 F.2d 1032, 1036 (C.C.P.A. 1979))). Kahn, 441 F.3d at 986-87. See also In re Clay, 966 F.2d 656, 659 (Fed. Cir. 1992) ("[a] reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.").

In view of KSR's holding that "any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed," 127 S. Ct. at 1742 (emphasis added), it is clear that the second part of the analogous-art test as stated in Clay, supra, must be expanded to require a determination of whether the reference, even though it may be in a different field from that of the inventor's endeavor, is one which, because of the matter with which it deals, logically would have commended itself to an artisan's (not necessarily the inventor's) attention in considering any need or problem known in the field of endeavor. Furthermore, although under KSR it is not always necessary to identify a known need or problem as a motivation for modifying or combining the prior art, it is nevertheless always necessary that the prior art relied on to prove obviousness be analogous. See KSR, 127 S. Ct. at 1739. ("The Court [in United States v. Adams, 383 U.S. 39, 40 (1966)] recognized that when a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable result.") (emphasis added). See also Sakraida, 425 U.S. 273,280 (1976)

In this case, Halpern is directed to installing software packages and downloading i.e. launching the installation of software packages using "auto-start" feature [see Abstract], Halpen also specifically teaches user interface allows users to select required program in a "single action" for example "double click [col 1, line 36-37] is common knowledge in the art, further Halpen also specifically teaches "self-extracting" executable programs and data files as detailed in col 6, line 47-52; self-extracting file corresponds to Halpen's self-extracting executable programs and data files as detailed in col 6, line 47-52; As noted, Halpen strongly teaches "auto-launch" or "auto-start" feature for installation the selected program applications and files Abstract, line 23-25, col 3, line 62-67, col 4, line 1-5, col 6, line 47-52

On the other hand, Gage is directed to downloading and uploading files in a network environment, more specifically message groups, objects indicative of files and displaying the content [Abstract, col 2, line 34-43], Gage strongly teaches user interface allows selecting, highlighting object files with a mouse particularly single and double clicking launches selected operation and/or program [col 8, line 50-55], further it is noted that Gage specifically teaches compression and decompression of files for example using PKZIP [col 10, line 44-50] supported from operating system such as Windows 95, Windows NT [col 8, line 25-30]

It is however, noted that Halpern does not specifically teach "temporary files", "archive header" On the other hand, Gage disclosed 'temporary files" [col 11, line 61-67, col 12, line 1-4, fig 3-4], Gage specifically teaches source files are copied , and compressed into the temporary files as detailed in col 11, line 62-64; "archive header

[fig 5, col 14, line 21-25, line 34-41], Gage specifically teaches header data structure information including compressed file format as detailed in col 14, line 34-41.

It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to incorporate the teachings of uploading/downloading files on a computer network of Gage et al. into user initiating the installation of software via distributed processing network of Halpern et al because both Halpern, Gage specifically teaches compression and decompression process particularly, using PKZ*IP* [Halpern: col 1, line 33-39; Gage: col 10, line 45-50, col 12, line 1-4], both Halpern, Gage specifically directed to "distributed processing network ' [Halpern: fig 1; Gage: fig 1]. Therefore, based on Halpern, in view of Gage, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Gage to the system of Halpern in order to provide temporary files during automatic file compression thereby increase the speed of uploading files in the distributed processing network, thus improving the quality and reliability of the system.

Examiner applies above arguments to claim 29 depend from claim 28.

Examiner applies above arguments to claims 11-19 depend from claim 10.

y) At page 52, claim 30, applicant argues "for reasons similar to those given above at least with respect to claim 25, Halpern and Gage, alone and in combination, fail to disclose or reasonably suggest " a method for creating an executable file…….Accordingly, Halpern and Gage, alone and in combination fail to disclose or reasonably suggest all the limitations of claim 30.

As to the above argument [y], examiner applies above claim 25 arguments.

Examiner applies above arguments to claim 34 depend from claim 32

Therefore, applicant's remarks are deemed not to be persuasive, and claims 11-19,25,28-29,30,34 stand rejected under 35 USC 103(a) as being unpatentable over Halpen in view of Gage.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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